

for filing statements of account for all underpayments or late payments of royalties for the satellite carrier statutory license for secondary transmissions for private home viewing and viewing in commercial establishments occurring within that accounting period. The accrual period shall end on the date the electronic payment submitted by a satellite carrier is received by the Copyright Office. In cases where a waiver of the electronic funds transfer requirement is approved by the Copyright Office, and royalties payments are either late or underpaid, the accrual period shall end on the date the payment is postmarked. If the payment is not received by the Copyright Office within five business days of its date, then the accrual period shall end on the date of the actual receipt by the Copyright Office.

(2)(i) The interest rate applicable to a specific accounting period beginning with the 1992/2 period shall be the Current Value of Funds Rate, as established by section 8025.40 of the Treasury Financial Manual and published in the FEDERAL REGISTER, in effect on the first business day after the close of the filing deadline for that accounting period. Satellite carriers wishing to obtain the interest rate for a specific accounting period may do so by consulting the FEDERAL REGISTER for the applicable Current Value of Funds Rate, or by contacting the Licensing Division of the Copyright Office.

(ii) The interest rate applicable to a specific accounting period earlier than the 1992/2 period shall be the rate fixed by the Licensing Division of the Copyright Office pursuant to 37 CFR 201.11(h) in effect on June 30, 1992.

(3) Interest is not required to be paid on any royalty underpayment or late payment from a particular accounting period if the interest charge is less than or equal to five dollars (\$5.00).

[54 FR 27877, July 3, 1989, as amended at 55 FR 49998, Dec. 4, 1990; 56 FR 29589, June 28, 1991; 57 FR 61834, Dec. 29, 1992; 59 FR 67635, Dec. 30, 1994; 60 FR 34168, June 30, 1995; 60 FR 57937, Nov. 24, 1995; 63 FR 30635, June 5, 1998; 64 FR 36574, July 7, 1999; 70 FR 30366, May 26, 2005; 70 FR 38022, July 1, 2005; 71 FR 45739, Aug. 10, 2006; 72 FR 33691, June 19, 2007; 73 FR 29072, May 20, 2008; 75 FR 56872, Sept. 17, 2010; 78 FR 42874, July 18, 2013]

#### **§ 201.12 Recordation of certain contracts by cable systems located outside of the forty-eight contiguous States.**

(a) Written, nonprofit contracts providing for the equitable sharing of costs of videotapes and their transfer, as identified in section 111(e)(2) of title 17 of the United States Code as amended by Pub. L. 94-553, will be filed in the Copyright Office Licensing Division by recordation upon payment of the prescribed fee. The document submitted for recordation shall meet the following requirements:

(1) It shall be an original instrument of contract; or it shall be a legible photocopy or other full-size facsimile reproduction of an original, accompanied by a certification signed by at least one of the parties to the contract, or an authorized representative of that party, that the reproduction is a true copy;

(2) It shall bear the signatures of all persons identified as parties to the contract, or of their authorized agents or representatives;

(3) It shall be complete on its face, and shall include any schedules, appendices, or other attachments referred to in the instrument as being part of it; and

(4) It shall be clearly identified, in its body or a covering transmittal letter, as being submitted for recordation under 17 U.S.C. 111(e).

(b) The fee for recordation of a document is prescribed in § 201.3.

(c) The date of recordation is the date when all of the elements required for recordation, including the prescribed fee, have been received in the Copyright Office. A document is filed in the Copyright Office and a filing in the Copyright Office takes place on the date of recordation. After recordation the document is returned to the sender with a certificate of record.

(Pub. L. 94-553; 17 U.S.C. 111, 702, 708(11))

[42 FR 53961, Oct. 4, 1977, as amended at 56 FR 59885, Nov. 26, 1991; 64 FR 29521, June 1, 1999]

#### **§ 201.13 Notices of objection to certain noncommercial performances of nondramatic literary or musical works.**

(a) *Definitions.* (1) A *Notice of Objection* is a notice, as required by section

## § 201.13

## 37 CFR Ch. II (7–1–15 Edition)

110(4) of title 17 of the United States Code as amended by Pub. L. 94-553, to be served as a condition of preventing the noncommercial performance of a nondramatic literary or musical work under certain circumstances.

(2) For purposes of this section, the *copyright owner* of a nondramatic literary or musical work is the author of the work (including, in the case of a work made for hire, the employer or other person for whom the work was prepared), or a person or organization that has obtained ownership of the exclusive right, initially owned by the author of performance of the type referred to in 17 U.S.C. 110(4). If the other requirements of this section are met, a Notice of Objection may cover the works of more than one copyright owner.

(b) *Form.* The Copyright Office does not provide printed forms for the use of persons serving Notices of Objection.

(c) *Contents.* (1) A Notice of Objection must clearly state that the copyright owner objects to the performance, and must include all of the following:

(i) Reference to the statutory authority on which the Notice of Objection is based, either by citation of 17 U.S.C. 110(4) or by a more general characterization or description of that statutory provision;

(ii) The date and place of the performance to which an objection is being made; however, if the exact date or place of a particular performance, or both, are not known to the copyright owner, it is sufficient if the Notice describes whatever information the copyright owner has about the date and place of a particular performance, and the source of that information unless the source was considered private or confidential;

(iii) Clear identification, by title and at least one author, of the particular nondramatic literary or musical work or works, to the performance of which the copyright owner thereof is lodging objection; a Notice may cover any number of separately identified copyrighted works owned by the copyright owner or owners serving the objection. Alternatively, a blanket notice, with or without separate identification of certain copyrighted works, and purporting to cover one or more groups of

copyrighted works not separately identified by title and author, shall have effect if the conditions specified in paragraph (c)(2) of this section are met; and

(iv) A concise statement of the reasons for the objection.

(2) A blanket notice purporting to cover one or more groups of copyrighted works not separately identified by title and author shall be valid only if all of the following conditions are met:

(i) The Notice shall identify each group of works covered by the blanket notice by a description of any common characteristics distinguishing them from other copyrighted works, such as common author, common copyright owner, common publisher, or common licensing agent;

(ii) The Notice shall identify a particular individual whom the person responsible for the performance can contact for more detailed information about the works covered by the blanket notice and to determine whether a particular work planned for performance is in fact covered by the Notice. Such identification shall include the full name and business and residence addresses of the individual, telephone numbers at which the individual can be reached throughout the period between service of the notice and the performance, and name, addresses, and telephone numbers of another individual to contact during that period in case the first cannot be reached.

(iii) If the copyright owner or owners of all works covered by the blanket notice is not identified in the Notice, the Notice shall include an offer to identify, by name and last known address, the owner or owners of any and all such works, upon request made to the individual referred to in paragraph (c)(2)(ii) of this section.

(3) A Notice of Objection must also include clear and prominent statements explaining that:

(i) A failure to exclude the works identified in the Notice from the performance in question may subject the person responsible for the performance to liability for copyright infringement; and

(ii) The objection is without legal effect if there is no direct or indirect admission charge for the performance,

and if the other conditions of 17 U.S.C. 110(4) are met.

(d) *Signature and identification.* (1) A Notice of Objection shall be in writing and signed by each copyright owner, or such owner's duly authorized agent, as required by 17 U.S.C. 110(4)(B)(i).

(2) The signature of each owner or agent shall be an actual handwritten signature of an individual, accompanied by the date of signature and the full name, address, and telephone number of that person, typewritten or printed legibly by hand.

(3) If a Notice of Objection is initially served in the form of a telegram or similar communication, as provided by paragraph (e) of this section, the requirement for an individual's handwritten signature shall be considered waived if the further conditions of said paragraph (e) are met.

(e) *Service.* (1) A Notice of Objection shall be served on the person responsible for the performance at least seven days before the date of the performance, as provided by 17 U.S.C. 110(4)(B)(ii).

(2) Service of the Notice may be effected by any of the following methods:

- (i) Personal service;
- (ii) First-class mail;
- (iii) Telegram, cablegram, or similar form of communication, if:

(A) The Notice meets all of the other conditions provided by this section; and

(B) Before the performance takes place, the person responsible for the performance receives written confirmation of the Notice, bearing the actual handwritten signature of each copyright owner or duly authorized agent.

(3) The date of service is the date the Notice of Objection is received by the person responsible for the performance or any agent or employee of that person.

(Pub. L. 94-553; 17 U.S.C. 110(4), 702)

[42 FR 64684, Dec. 28, 1977]

#### § 201.14 Warnings of copyright for use by certain libraries and archives.

(a) *Definitions.* (1) A *Display Warning of Copyright* is a notice under paragraphs (d)(2) and (e)(2) of section 108 of title 17 of the United States Code as amended by Pub. L. 94-553. As required by those sections the "Display Warning

of Copyright" is to be displayed at the place where orders for copies or phonorecords are accepted by certain libraries and archives.

(2) An *Order Warning of Copyright* is a notice under paragraphs (d)(2) and (e)(2) of section 108 of title 17 of the United States Code as amended by Pub. L. 94-553. As required by those sections the "Order Warning of Copyright" is to be included on printed forms supplied by certain libraries and archives and used by their patrons for ordering copies or phonorecords.

(b) *Contents.* A Display Warning of Copyright and an Order Warning of Copyright shall consist of a verbatim reproduction of the following notice, printed in such size and form and displayed in such manner as to comply with paragraph (c) of this section:

#### NOTICE WARNING CONCERNING COPYRIGHT RESTRICTIONS

The copyright law of the United States (title 17, United States Code) governs the making of photocopies or other reproductions of copyrighted material.

Under certain conditions specified in the law, libraries and archives are authorized to furnish a photocopy or other reproduction. One of these specific conditions is that the photocopy or reproduction is not to be "used for any purpose other than private study, scholarship, or research." If a user makes a request for, or later uses, a photocopy or reproduction for purposes in excess of "fair use," that user may be liable for copyright infringement.

This institution reserves the right to refuse to accept a copying order if, in its judgment, fulfillment of the order would involve violation of copyright law.

(c) *Form and manner of use.* (1) A Display Warning of Copyright shall be printed on heavy paper or other durable material in type at least 18 points in size, and shall be displayed prominently, in such manner and location as to be clearly visible, legible, and comprehensible to a casual observer within the immediate vicinity of the place where orders are accepted.

(2) An Order Warning of Copyright shall be printed within a box located prominently on the order form itself, either on the front side of the form or immediately adjacent to the space calling for the name or signature of the person using the form. The notice shall